

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:23-CR-00115-RJC-DCK

USA

v.

THOMAS LAGENE FRANKLIN

)
)
)
)
)
)

ORDER

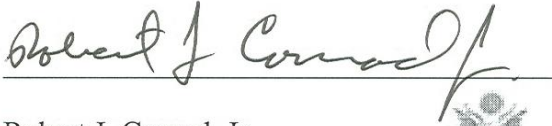
THIS MATTER is before the Court on motion of the defendant for the Court to recuse itself from presiding over this case because the undersigned prosecuted the defendant in another matter as an Assistant United States Attorney. (Doc. No. 25).

The defendant is charged, in pertinent part, with possessing a firearm as a felon in violation of 18 U.S.C. § 922(g)(1). (Doc. No. 20: Superseding Indictment at 3). If convicted of that offense, factual details about the prior prosecution may be relevant to determining his sentence under the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e). Wooden v. United States, 595 U.S. 360, (2022) (to trigger ACCA penalty, court must determine whether prior convictions were for offenses occurring on different occasions). Although recusal under 28 U.S.C. § 455(a) or (b)(1) is not required at this stage in the proceedings, In re Moore, 955 F.3d 384, 389 (4th Cir. 2020) (under analogous facts, grounds for disqualification might arise at sentencing, if at all), the Court will grant the motion in an abundance of caution.

IT IS, THEREFORE, ORDERED that this matter will be reassigned pursuant to the District's standing administrative order governing assignment of criminal cases.

The Clerk is directed to certify copies of this order to the defendant and the United States Attorney.

Signed: January 5, 2024

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

